



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,713	02/13/2002	Henry Van Acker JR.	1791003	6378

23405 7590 07/01/2003

HESLIN ROTHENBERG FARLEY & MESITI PC
5 COLUMBIA CIRCLE
ALBANY, NY 12203

EXAMINER

CHIN SHUE, ALVIN C

ART UNIT	PAPER NUMBER
----------	--------------

3634

DATE MAILED: 07/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/074,713

Applicant(s)

VAN ACKER, HENRY

Examiner

Alvin C. Chin-Shue

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 11-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 9 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The means for inhibiting is not described in the specification.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 8,9, and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claims 8 and 9, the limitations of the angles with respect to the mast, an element which is not claimed, render the claims indefinite. Claim 13 is merely functional and does not further limit any claimed element.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1-10,12,13, and 20 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Skinner. Skinner, in fig4 shows a brake 24, means for attaching 28, the shape of the movable attaching means is a maintaining and inhibiting means as set forth in claims 8 and 9, respectively.

Claims 1-6,8-10,12,13, and 20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Erickson '934. Erickson '934 shows a brake 24, means for supporting 100, means for attaching 97, means for maintaining and inhibiting 32-36.

Claims 1-3,5,6,8,10,12,13, and 20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Raymer. Raymer shows a brake 32a, movable attaching means 13, means for supporting 10, as set forth in claims 2 and 14, means for attaching 10, as set forth in claim 5, means for attaching 38, as set forth in claim 15, openable means 36, activation member 12.

Claims 1-6,10-15 and 20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Greenway. Greenway shows an activating member 26, means for supporting 12.

Claims 1,10-12,14,15, and 20 are rejected under 35 U.S.C. 102(a) as being clearly anticipated by Turner. Turner shows a brake 17, means for attaching 13-15, means for supporting 16, movable attaching means 2.

Claims 1-6,10,12-15, and 20 are rejected under 35 U.S.C. 102(a) as being clearly anticipated by Japanese pat. 257. Japanese '257 shows a brake 4, means for attaching 15, means for supporting 11, activation member 5.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Skinner or Erickson '934 in view of Turner or Japanese pat. '257. Both Skinner and Erickson '934 show the claimed device with the exception of the pivotally attached activating means. Turner shows a pivotally activating means 11. Japanese shows a pivotally attached activating means 5. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify either Skinner or Erickson '934 to comprise a pivotally activating means to

lessen the camming action of their movable attaching member on the mast due to the force of the applied to the attaching means.

Applicant's election with traverse of group I in Paper No. 4 is acknowledged. The traversal is on the ground(s) that the process and apparatus are intertwined and the search for both are the same and would not create a burden on the office. This is not found persuasive because applicant did not state how/why they are intertwined, applicant also fails to show that there is a coextensive search, and that a coextensive search is a reason for not requiring a restriction. Applicant fails to provide any reason or rational to support the self-serving conclusion that there is no burden. It is noted that the burden of an examination is more than the search.

The requirement is still deemed proper and is therefore made FINAL.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin C. Chin-Shue whose telephone number is 703-308-2475. The examiner can normally be reached on Monday-Friday, 8:00 a.m. - 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 703-308-2686. The fax phone numbers for the organization where this application or proceeding is

Application/Control Number: 10/074,713
Art Unit: 3634

Page 6

assigned are 703-305-3597 for regular communications and 703-305-3597 for
After Final communications.

Any inquiry of a general nature or relating to the status of this application or
proceeding should be directed to the receptionist whose telephone number is 703-
3008-1113.



Alvin C. Chin-Shue
Primary Examiner
Art Unit 3634

ACS
June 25, 2003